

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JANE DOE, an individual,

Plaintiff,

vs.

AMAZON.COM, INC, a Delaware corporation,
and

IMDB.COM, INC., a Delaware corporation,

Defendants.

No. 2:11-CV-01709-MJP

**DECLARATION OF DUNCAN
CRABTREE-IRELAND IN SUPPORT
OF PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION TO
DISMISS PURSUANT TO RULE 10(a)
AND CROSS-MOTION TO
PROCEED ANONYMOUSLY**

I, DUNCAN CRABTREE-IRELAND, hereby declare as follows:

1. I am currently employed by Screen Actors Guild, Inc. ("SAG") as its Deputy National Executive Director and General Counsel. I have been employed as in-house counsel by SAG for more than eleven years and have served as General Counsel since 2006 and as Deputy National Executive Director since 2007. Screen Actors Guild is the largest labor organization representing actors in film, television, internet, interactive media, and new media, with more than 125,000 members. SAG seeks to ensure the protection of actors, by achieving fair wages, safe and appropriate working conditions, and respectful and proper treatment from the industry in

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ANONYMOUSLY (NO. 2:11-CV-01709)- 1

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1 which they are employed. At SAG, I am responsible for overseeing the staff that receive
2 complaints from members and talent agents about the unauthorized disclosure of actors' personal
3 information, in particular unauthorized publication of birthdates by the IMDb.com online
4 service. I make this declaration based upon my own personal knowledge of the entertainment
5 industry and the experiences of actors therein.

6 2. For reasons more fully explained in the following paragraphs, it is my opinion and
7 that of Screen Actors Guild that plaintiff's fears and concerns about the significant and
8 irremediable consequences of pursuing this litigation other than as a "Jane Doe," are both
9 legitimate and justified. For that reason, the Court should permit her to maintain her anonymity
10 and to continue this action as "Jane Doe".

11 3. For actors, the most powerful and influential participants in the entertainment
12 industry are those that control casting – these individuals literally and absolutely control access
13 to employment opportunities. The power inherent in this position is enhanced even further by the
14 subjective nature of the casting decision-making process, making it difficult or impossible to
15 review such decisions after the fact to determine their propriety or appropriateness, other than on
16 an aggregate basis.

17 4. IMDb.com is a powerful and well-connected player in the entertainment industry.
18 Between the free IMDb.com service and the paid subscription-based IMDbPro.com service,
19 individuals with casting authority in the entertainment industry widely rely on IMDb to obtain
20 information used for decision-making in the casting process. IMDb has the ultimate, sole and
21 exclusive control over the content presented on its sites, and given its unique position as the
22 source relied on by casting personnel to obtain and verify information about prospective
23 employees, has extraordinary influence and power. Should IMDb decide, for example, to
24 negatively alter or remove an actor's record in their database, the damage to that individual's
25 ability to make a living and support a family would be very serious and perhaps irremediable.

5. In accordance with SAG's collective bargaining agreements, entertainment industry employers collect and report data to SAG about the individuals hired to perform under those collective bargaining agreements. SAG conducts a regular, biennial analysis of these casting data reports. That data consistently shows that actors and performers over the age of 40 are very significantly underrepresented in roles cast. Recent data shows that roles portrayed by female actors over age forty are less than half their actual representation in the population. Given that many actors can portray a range of ages that can be as much as a ten year span, or even more, allowing oneself to be prematurely pigeon-holed as an "over 40" actress can be very harmful. The loss of work that can result not only affects the actor's ability to pay the rent or buy groceries, but also affects eligibility for health insurance and pension credits, and can have lifelong and substantial consequences.

6. During my tenure at SAG, I have personally spoken to dozens of actors who have complained about the unauthorized publication of inaccurate (or accurate) birthdate information on the IMDb and IMDbPro platforms. To date, none of those actors have indicated a willingness to publicly step forward to challenge IMDb on the issue of the facilitation of age discrimination that results from IMDb's conscious decision to publish the full date of birth for actors who are not high-profile or well known to the public. Each actor with whom I have discussed their reasons for being unwilling to step forward publicly has been concerned about blacklisting by the industry and the further dissemination of the very information they are seeking to keep private.

7. I am informed and believe that Plaintiff has instructed her counsel to file this action as a "Jane Doe" because she fears blacklisting by the entertainment industry resulting from her decision to file this lawsuit against IMDb, and because it was necessary for her to allege facts that, when taken in combination with her true legal name, would obviate the purpose of her lawsuit which is to seek IMDb's compliance with its obligation to maintain the privacy of her personal information.

8. One of the most shameful elements of the history of the entertainment industry was its active participation in blacklisting creative professionals, including actors, based on their political views. The Hollywood blacklist period lasted more than twenty years, and ruined the careers and livelihoods of many. While one might wish it to be a relic of history, many performers who have approached me about a variety of complaints or issues involving the industry have expressly stated their concerns about being blacklisted once identified as a “complainer,” and have been very reticent to publically step forward due to the anticipated career and personal consequences for doing so. This is equally true, or perhaps even more so, with respect to complaints against IMDb for the unauthorized publication of personal information, including dates of birth.

9. The complaint in this matter alleges that the defendants failed to honor their own privacy policy and contract with plaintiff, and that they improperly published her personal information including her date of birth. For the reasons I have stated above, Ms. Doe’s concern about the impact of further dissemination of her age to industry employers is a very legitimate concern, particularly in light of the publicity this case has generated. If she is required to identify herself publicly in this matter, the very harm she is complaining about will be drastically exacerbated. The real effect of this is effectively retaliation for challenging IMDb’s practices. It will deter the only people who have standing to challenge these practices, thereby unjustly insulating IMDb from responsibility for its actions, not just with respect to this plaintiff, but with respect to most or even all potential plaintiffs.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 27th day of November, 2011.

By:


Duncan Crabtree-Ireland

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CERTIFICATE OF SERVICE

I certify that on November 28, 2011, I electronically filed the foregoing DECLARATION OF DUNCAN CRABTREE-IRELAND IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PURSUANT TO RULE 10(a) AND CROSS-MOTION TO PROCEED ANONYMOUSLY with the Clerk of the Court using the CM/ECF system, thereby sending notification of such filing to the following attorneys of record:

Ashley A. Locke, Esq.
Breena Michelle Roos, Esq.
Elizabeth L. McDougall-Tural, Esq.
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I certify under penalty of perjury that the foregoing is true and correct.

Dated this 28th day of November, 2011.

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